

**Central Valley Regional Water Quality Control Board
Irrigated Lands Conditional Waiver Program
Public Advisory Committee
9 May 2005 Meeting Notes**

Water Board Program Updates

Environmental Impact Report – Water Board agreed on detailed scope of work with Jones and Stokes to develop an EIR for a long-term program for irrigated lands. The contract is moving through the process, aiming for 1 June start date and a final EIR in December 2006. Significant public outreach will take place throughout this time.

Technical Issues Committee – A powerpoint presentation discussed the purpose of this group and the various focus groups, the objective of each focus group, and the status of issues.

Management Practices Working Group – An initial meeting was held on 4 May with representation from Coalition Groups, Ag Commissioners, UCD, and others. The group is reviewing language on management practices in the Conditional Waiver Monitoring and Reporting Program, aiming to propose changes for Water Board staff consideration.

Monitoring Programs Status Report – A powerpoint presentation discussed of the status of the Annual Monitoring Reports and Water Board Staff's review of them.

Responses to Water Code Section 13267 Letters – A powerpoint presentation discussed the Water Board's informal and formal enforcement tools and staff's plan for followup on the responses to the 88 Section 13267 letters sent.

Proposed Fee Schedule – The State Water Board held a fee workshop on 3 May during which three proposals were presented for discussion. The staff proposal has three tiers of payment for Coalition Groups and Individual Dischargers. The fee schedule was developed in response to Legislative direction to fund this program.

Other Conditional Waiver Programs – Region 3 has a conditional waiver program and started enrollment in January 2005; 70% of the acreage is now covered. Region 4 may pass a conditional waiver program in Summer 2005.

Coalition Group Updates

San Joaquin County & Delta Water Quality Coalition – John Meek

- Submitted the annual report on 1 April
- MRP Plan not yet approved.
- Coalition Group meeting scheduled next week in which Mike Johnson (UC Davis) will participate.
- Some farmers have already started 2005 irrigation season.

Westside San Joaquin River Watershed Coalition – David Cory

- Submitted the annual report on 1 April
- They already started the 2005 irrigation season monitoring.

- 2005 is a strange year with all the rain.

East San Joaquin Water Quality Coalition – Parry Klassen

- Submitted the annual report on 1 April
- MRP Plan not yet approved.
- 6 sites monitored last year, but 2 were dry.
- They increased the number of sites to 13 (which is 20% of the total number of water bodies)
- Irrigation season monitoring will begin the week of 16 May

Southern San Joaquin Valley Water Quality Coalition – David Orth

- Submitted the annual report on 1 April
- Meeting with Fresno Office Water Board staff on May 17 to discuss the report.
- 4 subwatersheds all drain to Tulare Lake Basin.
- The Kings River subwatershed irrigation season began in March.
- Sediment toxicity levels are a problem; eutrophication (overgrowth of algae) is a problem, and more research needs to be done and alternative solutions developed.

Sacramento Valley Water Quality Coalition – Aaron Ferguson

- Submitted the annual report on 1 April
- 27 sites, 16 funded by Coalition Group and 11 from other programs (they did QA/QC on the other programs).
- Toxicity found at 3 sites in 2004, but levels were marginal and no TIE was done.
- Pesticide sampling was mainly for diazinon and chlorpyrifos.
- In 7 of 9 sites, diazinon was detected (in two cases the levels found exceed the criteria).
- Irrigation season monitoring began the first week of May.
- They are having problems with sediment, and phosphorous levels are being evaluated. In the next irrigation season 2 sediment samples will be collected.

Westlands Water District – Oroville McKinnis

- ~85 % of the district is enrolled, and the rest may be fallow land
- No tailwater discharge from the lands, only stormwater.
- 100 % of the canals are under the Ag Waiver program
- If there is a problem that needs to be inspected during the storm event, sometimes 4 to 5 hours of storm is not enough time to detect the source of the problem.

Questions and Comments

The questions and comments below came from various stakeholders. The responses were from State and Regional Water Board representatives.

On Management Practices Working Group:

- Comment: There's language proposed to be changed in the draft revised MRP just sent out to which the WG might want to recommend changes.
- Response: The WG is the first step of soliciting input on proposed changes; staff will consider proposals during the waiver update process, which will have a long public comment period.

On review of Annual Monitoring Reports:

- Question: When will the CGs receive comments, especially since the 2005 irrigation season is starting this month?
- Response: Water Board staff plan to speak to each CG representative in the next few weeks to provide feedback, then follow up with written comments within a month or so.

On Staffing:

- Question: How many staff are in the program and how many vacancies are there?
- Response: There are 19 staff positions for the program (compared to 6 previously), with 3 vacancies remaining, which Water Board staff hope to fill in the next 30 days.
- Question: Why is the Water Board hiring people before the fee schedule is adopted?
- Response: State Board is funding the existing and new positions with fees paid by other dischargers. We definitely need the staff at the Water Board, but if it turns out the fee doesn't support them, they can be transferred to other vacancies.

On Proposed Fee Schedule:

- Comment: There is confusion about the fees, which are different than fees paid to Coalition Groups.
- Response: A Legislative directive said to fund the Irrigated Lands Program, and there is nowhere else to get the resources to support the program.
- Question: For Tier 2, how will the State Board collect the fees from CG members?
- Response: SB will ask CGs for membership lists. If CGs don't provide them, will have to use public sources to get the necessary information.
- Question: How were the fees calculated?
- Response: NOI info was used to prepare the initial fee schedule. State Board staff understands there won't be fully paid fees for a few years. If there are a lot of non-filers, it's up to the Regional Board staff to find them.
- Comment: Thought there was an issue in the past about giving the state membership lists.
- Response: We can send bills to everyone, CGs can release their lists or not, State Board provides options and CGs will have to decide.
- Question: What about growers who have participated in CGs but who really don't think they should because they don't think they have tailwater or stormwater. Now with the state fee, some of these growers may drop their membership. Due to this issue, CGs are reluctant to provide membership lists to the state.
- Response: The definition of a Discharger came out early on. If a person falls into the definition, they must apply for the waiver and now will have to pay a state fee on file for WDRs.
- Question: What acres do you consider for the fee, since not every acre is farmed and/or irrigated? Farm fields change size from year to year.

- Response: We need to start this policy discussion, but the state government has payment for services. Whether or not this fits for agriculture, there will be a fee policy. The entire program to date has used funds from other programs.
- Comment: The fee issue is emotional for growers and drives people away from the CG process, even though it's only a few cents increment over the CG fee.
- Response: This is about building relationships, which have not had time to develop, before imposing this fee, but we must move on.
- Question: Will the fees collected be used to take enforcement action against farmers who are not participating?
- Response: No. Water Board staff will use other funds, not fees, for enforcement. Some farmers have gotten a free ride so far. The fee schedule is part of the defensibility of the program. Ag will benefit from a defensible program to show they are doing their part.

On Followup to Section 13267 Letter Responses:

- Question: How will the Water Board staff verify whether a grower who says he doesn't discharge really doesn't discharge?
- Response: We will look at the land, talk with the growers, see what measures are taken to prevent discharges, take this information back to the office, and make a determination.
- Comment: The inspections should be based on well-defined criteria, and decisions should be based on well-documented science.
- Response: See Response directly above.
- Comment: Everyone will be watching the verification inspections closely and they will set precedents. There's a need to document the results carefully and get agricultural engineers involved.
- Response: Enforcement for non-point source pollution is new. There will be much internal discussion about the inspection results. This step will be taken very carefully. It is a safe assumption that groundwater will be part of this program in the future. Whether someone is in or out may change.
- Comment: There are issues with low-lying lands near rivers. The program should deal with irrigated lands overall, not who is or isn't a Discharger.
- Response: We need to refocus on irrigated agriculture and move away from the word "Discharger." Perhaps there needs to be a different name for people participating in the Conditional Waiver Program.
- Question: What frequency of storm event is considered under the Conditional Waiver?
- Response: There is no set level on storm frequency, only whether there is storm runoff from irrigated lands.

Next Meeting: The next meeting was scheduled for 11 July 2005 at 10:30 in Modesto.

- Note this was later changed to 18 July 2005.